

the ship by a fixed iron ladder, built into the fore side of the hatch. At the time of the accident a wooden ladder some 20 feet long had been put down from the deck to the hold, and the libelant, when going down the ladder to his work in the hold, stepped upon a rung of the ladder which broke under him, whereby he was precipitated into the hold, and suffered injuries, to recover for which this action is brought. There is no positive evidence in the case as to who put the wooden ladder down into the hold. In the absence of any evidence as to who placed the wooden ladder in the hatch, and as it appears that a permanent iron ladder was in position, fit for use, at the same time, the presumption would seem to be that the wooden ladder was placed in the hatch by the stevedores, who used it to pass into the hold more easily than by the iron ladder which had been furnished by the ship. The ship had furnished proper access to the hold by the permanent iron ladder, and she cannot be held liable for a defective ladder, which, although owned by the ship, does not appear to have been furnished for that purpose by any person connected with the ship, and presumably was placed there by a co-laborer of the libelant. The fatal defect in the libelant's case is that it is not made to appear that the defective ladder which caused the libelant's fall was furnished by the ship, while it does appear that a safe ladder was furnished, which the libelant declined to use.

The libel must be dismissed. I give no costs.

THE CARRIE.¹

JONES *v.* THE CARRIE.

(District Court, E. D. New York. July 1, 1891.)

MARITIME LIEN—ENFORCEMENT OF—LACHES—TRANSFER OF OWNERSHIP.

A material man *held* to be entitled to enforce his lien against a vessel, notwithstanding a subsequent transfer of the ownership of the boat, which the evidence did not show to be *bona fide*, and notwithstanding a delay of between two and three years in enforcing the lien.

In Admiralty. Suit to enforce a maritime lien.

Alexander & Ash, for libelant.

D. D. McKoon, for mortgagee.

BENEDICT, J. This is an action to enforce a lien for a material-man. It is defended by one Buckley, who claims an interest in the lighter by reason of an unpaid mortgage held by him. Buckley has set up the defense of laches, and transfer of the vessel to one Costigan since the incurring of Jones' lien. No other defense is set up. The owner of the lighter interposes no defense. So far as concerns the transfer to Costigan,

¹ Reported by Edward G. Benedict, Esq., of the New York bar.

it is sufficient to say that the evidence does not show it to be *bona fide*, nor could it in any event avail Buckley. As to Buckley, his interest in the vessel is by way of a mortgage that attached to the lighter long prior to the claim of Jones. The case, therefore, is the same as if a prior owner of the vessel were defending upon the ground of laches. In such a case a lien will not be held lost by laches simply by reason of a delay of between two and three years in enforcing it. A decree must be entered for the libellant, with costs.

THE MANHATTAN.

LAKE *v.* THE MANHATTAN, etc.

(District Court, D. Washington, N. D. June 22, 1891.)

1. MARITIME CONTRACTS.

Contracts for work to be performed and materials to be furnished in completing and equipping a new vessel, left uncompleted by her builders, where such contracts are entered into and have their inception after the vessel has been launched and named, and become capable of being identified as a vessel, are maritime contracts.

2. SAME—LIEN—ADMIRALTY JURISDICTION.

Where, by a local statute, a lien is given for work done and materials furnished in the construction of vessels, a suit *in rem* against the vessel upon such a contract, as above described, and to enforce such a lien, can be maintained, and is within the admiralty jurisdiction of the United States courts.

(*Syllabus by the Court.*)

In Admiralty.

F. H. Peterson, for libellant.

Carr & Preston, Weistling & Weistling, W. A. Peters, and C. D. Emery, for intervening libellants.

J. B. Metcalfe, for claimant.

HANFORD, J. The Manhattan is an uncompleted vessel. The libellant built her in this state, and launched her upon Lake Washington, for persons who intended to own and run her upon said lake, but failed to pay the libellant for her construction according to their contract. For this failure to pay him, the libellant sold the vessel to other parties in the condition in which she then was; that is to say, a mere hull, without masts, sails, machinery, or other propelling power. The purchasers caused her to be floated or towed upon the waters of Lake Washington, Black river, and Duwamish river to the harbor of the city of Seattle, and thence to a ship-yard owned and managed by the libellant; and afterwards, under a new contract with them, the libellant performed work and furnished materials towards completing and changing the vessel from a side-wheel steamer into a propeller, and there is now due to him the sum of \$1,367.96 for said work and materials, and he has a statutory lien therefor by virtue of the laws of this state in force during the time of the performance of the contract. To enforce said lien this suit *in rem*